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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,919	10/23/2003	Rene Joachim Buter	F3259(C)	1618
201	7590	10/20/2004		
UNILEVER PATENT DEPARTMENT 45 RIVER ROAD EDGEWATER, NJ 07020			EXAMINER YEUNG, GEORGE CHAN PUI	
			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/691,919

Applicant(s)

BUTER ET AL.

Examiner

George C Yeung

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 ~~is~~/are pending in the application.
- 4a) Of the above claim(s) 7-12 ~~is~~/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 ~~is~~/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/13/2004.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicants' election with traverse of the invention of Group I (claims 1-6) in the response filed August 26, 2004 is acknowledged. The traversal is on the ground that it would not appear to be unduly burdensome for the claims of Groups I and II to be examined together. This is not found persuasive because the search and examination of the two inventions would not be coextensive. It is clear from reading the scope of process claims 1-6 that the Group I process does not include the same or corresponding special technical features such as each entry port is connected to an exit port by way of a conduit running through the nozzle, each sub-conduit being connected to an exit port, each sub-conduit forming a semi-annular chamber around a central conduit, in a second section the central conduit and semi-annular chambers from the first section are connected to a plurality of further sub-conduits, and the exit ports comprise a symmetrical array of substantially rectangular openings radially arranged about a central point as set forth in the Group II apparatus. Moreover, it is deemed that the apparatus of Group II as claimed can be used to practice another and materially different process, e.g., for use in extruding a non-edible material such as a thermoplastic material. Accordingly, the issues raised in the examination of process claims are divergent from those raised in the examination of apparatus claims. While there may be some overlap in the searches of the two inventions, there is no reason to believe that the searches would be identical. Therefore, based on the additional work

Art Unit: 1761

involved in searching and examining both distinct inventions together, restriction of the distinct inventions is clearly proper.

The requirement is still deemed proper and is therefor made FINAL.

### ***Specification Objection***

The specification is objected to because of the following informality:

The heading "Detailed description" appearing at page 11, line 16 is improper and it should be changed to read -- Brief Description of the Drawings --.

### ***Claim Rejections – 35 USC § 112***

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the following reasons:

1. While the preamble of claim 1 calls for a process for extruding ice cream, claim 1 fails to recite a positive manipulative step of extruding ice cream. Thus claim 1 is indefinite and incomplete.

2. It is not clear whether or not the term "a nozzle" recited in claims 1 and 6, lines 2 and 4, respectively, refers to an extrusion nozzle.

3. The limitations "divided" and "extrusion" recited in claims 1 and 6 are improper since they fail to impart positive manipulative steps to the process claims. The change of these limitations to -- dividing -- and -- extruding -- would obviate this rejection.

Art Unit: 1761

4. While the preamble of claim 6 calls for a method of dispensing fresh ice cream, claim 6 fails to recite a positive manipulative step of dispensing fresh ice cream. Thus claim 6 is indefinite and incomplete.

### ***Claim Rejections – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1–6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hershey (U.S. Patent 2,282,313) or Gundlach et al (U.S. Patent 2,284,651).

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cammack (U.S. Patent 3, 344,751), Jernigan (U.S. Patent 3,724,984) or Nelson et al (German patent 1 236 535).

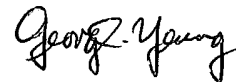
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Yeung whose telephone number is 571-272-1412. The examiner can normally be reached on Monday thru Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G. Yeung/LR  
October 18, 2004



GEORGE C. YEUNG  
PRIMARY EXAMINER